

APPEAL NO. 041894
FILED SEPTEMBER 22, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 4, 2004, and continued on May 12, 2004. On the two issues, the hearing officer determined that the appellant (claimant) has a 10% impairment rating (IR) as certified by the designated doctor appointed by the Texas Workers' Compensation Commission (Commission) and a maximum medical improvement (MMI) date of September 16, 2003. The claimant appeals the IR determination on sufficiency of the evidence grounds and asserts that he is entitled to a 20% IR under Texas Workers' Compensation Commission Advisory 2003-10, dated July 22, 2003.¹ The respondent (self-insured) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant has a 10% IR, as certified in the designated doctor's second amended report. Section 408.125(e) provides that the Commission-selected designated doctor's IR certification is entitled to presumptive weight unless it is contrary to the great weight of the other medical evidence. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(i) (Rule 130.6(i)) further provides that a designated doctor's response to a Commission request for clarification is considered to have presumptive weight, as it is part of the designated doctor's opinion. The hearing officer found that the designated doctor considered Advisory 2003-10 and that his second amended report was not contrary to the great weight of the other medical evidence. We cannot conclude that the hearing officer's IR determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

¹ We note that Advisory 2003-10 was amended by Advisory 2003-10B, effective February 24, 2004.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge